

**UNITED STATES DISTRICT COURT  
DISTRICT OF COLUMBIA**

**LARRY W. BRYANT**  
3518 Martha Custis Drive  
Alexandria, VA 22302,

Plaintiff,

v.

Civil Action No. \_\_\_\_\_

**CENTRAL INTELLIGENCE AGENCY**  
Washington, D.C. 20505

and

**LEON E. PANETTA**  
In his official capacity as  
Director of Central Intelligence  
Central Intelligence Agency  
Washington, D.C. 20505

Defendants.

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**COMPLAINT FOR DECLARATORY JUDGMENT,  
INJUNCTIVE RELIEF, DAMAGES, AND ATTORNEYS' FEES**

Plaintiff, Larry W. Bryant, by and through undersigned counsel, hereby files this Complaint for declaratory and injunctive relief, and states as follows:

**I. NATURE OF ACTION**

1. This is an action for violation of Plaintiff's rights under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552 against the Central Intelligence Agency ("CIA") and Leon E. Panetta, in his official capacity as Director of the CIA.

2. Since September 2008, Defendants have and unlawfully denied the Plaintiff Larry W.

Bryant's rights, as a representative of the news media under the FOIA, not to be charged processing fees (other than copying fees) in connection with the Plaintiff's FOIA requests to the CIA for agency records.

## **II. JURISDICTION AND VENUE**

3. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331 and 5 U.S.C. § 552(a)(4)(B). Venue is proper in this Court pursuant to 5 U.S.C. § 552(a)(4)(B).

## **III. PARTIES**

4. Plaintiff Larry W. Bryant is Director of the Washington, D. C., Office of Citizens Against UFO Secrecy. He is a representative of the news media, and, in that capacity, on a not-for-profit basis, he gathers, researches, and publishes documents and information and analysis concerning Unidentified Flying Objects ("UFO's"). Among his UFO publications is his column "Bryant's UFO View" for the monthly newsstand periodical *UFO Magazine*, examples of which are included in his Internet site entitled Larry W. Bryant's UFOview, at <http://ufoview.posterous.com> (last visited May 14, 2009). Plaintiff is retired from a 36-year career in writing and editing for United States Army publications, and operates the office of the public-interest group Citizens Against UFO Secrecy from his home in Alexandria, Va.

5. Defendant CIA is a federal agency. Defendant Leon E. Panetta is the Director of the CIA and is sued in his official capacity as Director. Defendant CIA's website – at <https://www.cia.gov/contact-cia/index.html> (last visited May 8, 2009) -- lists its contact address as Central Intelligence Agency, Office of Public Affairs, Washington, D.C. 20505

## **IV. ALLEGATIONS**

6. On August 13, 2008, Plaintiff sent the CIA a Freedom of Information Act

(“FOIA”) request relating to federal government meetings and material concerning evidence of such Unidentified Flying Object (“UFO”) activity as an incident on November 17, 1986. He requested to be granted status as a representative of the news media, and, therefore, not to be charged for searching fees, but only for copying fees. *See* Attachment A hereto.

7. By letter dated September 30, 2008, the CIA, through CIA Information and Privacy Coordinator Delores M. Nelson, denied Plaintiff status as a representative of the news media. *See* Attachment B hereto.

8. On October 3, 2008, Plaintiff delivered to the CIA an appeal of the foregoing denial of news media status. *See* Attachment C hereto.

9. By letter dated October 28, 2008, the CIA, through CIA Information and Privacy Coordinator Delores M. Nelson, again denied news media representative status to Plaintiff. *See* Attachment D hereto.

10. Plaintiff has exhausted his administrative remedies, in that his original request for news media representative status was denied by the CIA, and the CIA denied his appeal thereof.

## **COUNT II**

### **NEWS MEDIA REPRESENTATIVE STATUS**

11 Plaintiff realleges and incorporates herein paragraphs 1 through 10 as if fully restated herein.

12. Defendants did not use the level of diligence and good faith to conduct a search for the documents requested in Plaintiff’s FOIA Request. Instead, Defendants merely replied that documents relating to the FOIA Request had been made available prior to the date of Plaintiff’s FOIA Request, and that Plaintiff was free to seek said documents online or to pay to obtain them. Other than what is stated in the foregoing sentence, Defendants’ responses to Plaintiff’s FOIA

Request reveals that Defendants conducted no search to respond to Plaintiff's FOIA Request.

## **COUNT II**

### **NEWS MEDIA REPRESENTATIVE STATUS**

13 Plaintiff realleges and incorporates herein paragraphs 1 through 12 as if fully restated herein.

14. The FOIA provides that "fees shall be limited to reasonable standard charges for document duplication when records are not sought for commercial use and the request is made by ... a representative of the news media." 5 U.S.C. § 552(a)(4)(A)(ii)(II).

15. Plaintiff's FOIA request states, in pertinent part: "Since I submit this request as a representative of the news media (principally as a columnist for the newsstand periodical 'UFO Magazine'), I ask that you waive all records-search/review fees incident to your fulfilling this request. For a sampling of my freelance publication credits, see the author's blog at <http://ufoview.posterous.com>."

16. The website for *UFO Magazine*, discussed in ¶ 13 *supra*, confirms that Plaintiff is a columnist for said magazine. See, e.g., <http://www.ufomag.com/front/about.html> (last visited May 14, 2009).

17. At the time he submitted his FOIA request described in ¶ 13 *supra* ("FOIA Request"), and for the purpose of said FOIA Request, Plaintiff was a representative of the news media entitled to only be charged photocopying fees under the FOIA.

18. The CIA's denial of Plaintiff's FOIA Request (at Exhibit B herein) states that Plaintiff's news media representative fee waiver request is denied "because your [FOIA Request] does not meet [CIA FOIA regulations] because disclosing the information you seek is already in the public domain and its re-release would not likely contribute significantly to

public understanding of the operations and activities of the United States Government. I therefore deny your request for a fee waiver.”

19. The CIA’s denial of news media representative status to Plaintiff was erroneous and without statutory foundation. *First*, the records Plaintiff sought would indeed contribute to public understanding of the operations and understanding of activities of the United States government as it pertains to the government’s UFO-related investigations. *Second*, the definition of “representative of the news media” is more narrow and crabbed against those claiming such status than the definition of news media representative in the FOIA itself. *Compare* .” 5 U.S.C. § 552(a)(4)(A) and 32 C.F.R. § 1900.02(h)(3). Nowhere in the FOIA nor in any other statute is authority given to agencies to narrow the FOIA’s definition of news media representative.

20. Consequently, Defendants failed to grant Plaintiff news media representative status, when he in fact so qualifies for such status with his FOIA Request and in general.

21. Consequently, Defendants failed to grant Plaintiff a fee waiver so as only to have to pay photocopying and reproduction fees and not to have to pay a records search fee.

### **COUNT III**

#### **ATTORNEY’S FEE DEMAND**

22 Plaintiff realleges and incorporates herein paragraphs 1 through 21 as if fully restated herein.

23. In his legitimate desire to pursue the rights and privileges guaranteed by the laws of the United States, Plaintiff has employed the undersigned attorney to prosecute this action and has agreed to pay his attorney a reasonable fee for same.

24. Accordingly, Plaintiff is entitled to an award of attorney's fees from Defendants as

provided for by 5 U.S.C. § 552(a)(4)(E), and by all other applicable provisions of law, due to Defendants' denial of his fee waiver request to the CIA.

**WHEREFORE**, Plaintiff respectfully requests that this Court GRANT the following relief:

- a) A declaration that Defendants have improperly denied Plaintiff status as a news media representative entitled to a fee waiver under the FOIA.
- b) An immediate hearing on this Complaint;
- c) An Order that the Defendants forthwith affirm and give Plaintiff news media representative status, grant him his requested fee waiver, and refrain from denying him that status so long as he maintains it in the future, and conduct a reasonable and prompt records-search for the records sought in Plaintiff's FOIA Request.
- d) An award of any and all attorney's fees and costs as authorized by law;
- e) An award of all appropriate damages established by Plaintiff; and
- f) Such other and further relief as this Court deems fit, just, and equitable.

Dated: May 20, 2009

Respectfully submitted,

**JON KATZ, P.C.**

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Jonathan D. Katz  
DC Bar No. 425615  
8720 Georgia Ave., Suite 703  
Silver Spring, MD 20910  
(301) 495-7755  
Fax: (301) 585-7733  
jon@katzjustice.com  
Attorney for Plaintiff

L

Jonathan L. Katz

The Plaintiff respectfully demands a jury trial on all issues so triable.

**DEMAND FOR JURY TRIAL**